

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 08-13555 (JMP)

4 Adv. Case No. 08-01420 (JMP) (SIPA)

5 Adv. Case No. 12-10063 (JMP)

6 Adv. Case No. 09-01062 (JMP)

7 - - - - - x

8 In the Matter of:

9

10 LEHMAN BROTHERS HOLDINGS INC., et al.,

11

12 Debtors.

13 - - - - - x

14 In the Matter of:

15

16 LEHMAN BROTHERS INC.,

17

18 Debtor.

19 - - - - - x

20 In the Matter of:

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22 LEHMAN BROTHERS AUSTRALIA LIMITED,

23

24 Debtor.

25 - - - - - x

1 TURNBERRY CENTRA SUB, LLC, et al.,

2 Plaintiffs,

3 v.

4 LEHMAN BROTHERS HOLDINGS, INC., et al.,

5 Defendants.

6 - - - - - x

7 U.S. Bankruptcy Court

8 One Bowling Green

9 New York, New York

10

11 October 10, 2012

12 10:04 AM

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14 B E F O R E :

15 HON JAMES M. PECK

16 U.S. BANKRUPTCY JUDGE

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1 Hearing re: Lehman Brothers Special Financing Inc. Working  
2 Group's Application for Entry of an Order, Pursuant to 11  
3 U.S.C. §§ 503(b)(3)(D) and 503(b)(4) for Allowance and  
4 Reimbursement of Reasonable Professional Fees and Actual,  
5 Necessary Expenses in Making a Substantial Contribution in  
6 These Cases [ECF No. 29239]

7  
8 Hearing re: Application of the Ad Hoc Group of Lehman  
9 Brothers Creditors for Compensation for Professional  
10 Services Rendered by, and Reimbursement of Actual and  
11 Necessary Expenses of, Its Professionals Pursuant to Section  
12 503(b) of the Bankruptcy Code Rendered by, and Reimbursement  
13 of Actual and Necessary Expenses of, Its Professionals  
14 Pursuant to Section 503(b) of the Bankruptcy Code [ECF No.  
15 29195]

16  
17 Hearing re: Lehman Brothers Inc. Status Conference

18  
19 Hearing re: In re Lehman Brothers Australia Limited Status  
20 Conference

21  
22 Hearing re: Motion of Fidelity National Title Insurance  
23 Company to Compel Compliance with Requirements of Title  
24 Insurance Policies [ECF No. 11513]

25

1 Hearing re: Motion of Monti Family Holding Company, Ltd for  
2 Leave to Conduct Rule 2004 Discovery of Debtor Lehman  
3 Brothers Holdings, Inc. and Other Entities [ECF No. 16803]  
4

5 Hearing re: Amended Motion of Giants Stadium LLC for Leave  
6 to Conduct Discovery of Debtors Pursuant to Federal Rule of  
7 Bankruptcy Procedure 2004 [ECF No. 31105]  
8

9 Hearing re: Amended Motion of IronBridge Homes, LLC, et al  
10 for Relief from the Automatic Stay [ECF No. 23551]  
11

12 Hearing re: Turnberry Centra Sub, LLC, et al, v. Lehman  
13 Brothers Holdings Inc., et al. [Adversary Case No. 09-01062]  
14

15 Hearing re: Cardinal Investment Sub I, L.P. and Oak Hill  
16 Strategic Partners, L.P.'s Motion for Limited intervention  
17 in the Contested Matter Concerning the Trustee's  
18 Determination of Certain Claims of Lehman Brothers Holdings  
19 Inc. and Certain of its Affiliates [LBI ECF No. 4634]  
20

21 Hearing re: Motion of FirstBank Puerto Rico for (1)  
22 Reconsideration, Pursuant to Section 502(j) of the  
23 Bankruptcy Code and Bankruptcy Rule 9024, of the SIPA  
24 Trustee's Denial of FirstBank's Customer Claim, and (2)  
25 Limited Intervention, Pursuant to Bankruptcy Rule 7024 and

1 Local Bankruptcy Rule 9014-1, in the Contested Matter  
2 Concerning the Trustee's Determination of Certain Claims of  
3 Lehman Brothers Holdings Inc. and Certain of Its Affiliates  
4 [LBI ECF No. 5197]

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25 Transcribed by: Melissa Looney

1 A P P E A R A N C E S :

2 WEIL, GOTSHAL & MANGES LLP

3 Attorneys for Debtors

4 767 Fifth Avenue

5 New York, NY 10153-0119

6

7 BY: AMANJIT S. ARORA, ESQ.

8 RICHARD W. SLACK, ESQ.

9

10 KIRKLAND & ELLIS LLP

11 Attorney for Lehman Brothers Australia

12 300 North LaSallie Street

13 Chicago, IL 60654

14

15 BY: JEFFREY W. GETTLEMAN, ESQ.

16

17 WHITE & CASE LLP

18 Attorney for Lehman Brothers Bondholders

19 1155 Avenue of the Americas

20 New York, NY 10036-2787

21

22 BY: J. CHRISTOPHER SHORE, ESQ.

23

24

25

1 DAVIS POLK & WARDWELL LLP

2 Attorney for Lehman Brothers Europe Inc.

3 450 Lexington Avenue

4 New York, NY 10017

5  
6 BY: TIMOTHY GRAULICH, ESQ.

7  
8 LINKLATERS, LLP

9 Attorney for Lehman Brothers Europe Inc.

10 1345 Avenue of the Americas

11 New York, NY 10105

12  
13 BY: JAMES R. WARNOT, JR., ESQ.

14  
15 HUGHES HUBBARD & REED LLP

16 Attorney for the SIPA Trustee

17 One Battery Park Plaza

18 New York, NY 10004-1482

19  
20 BY: JAMES B. KOBAK, JR. ESQ.

1 SIMPSON THACHER & BARTLETT LLP

2 Attorneys for Blackstone

3 425 Lexington Avenue

4 New York, NY 10017-3954

5  
6 BY: MARK J. THOMPSON, ESQ.

7 NICHOLAS LEON, ESQ.

8  
9 UNITED STATES DEPARTMENT OF JUSTICE

10 Attorneys for the United States Trustee

11 33 Whitehall Street, 21st Floor

12 New York, NY 10004

13  
14 BY: ANDREA B. SCHWARTZ, ESQ.

15 SUSAN GOLDEN, ESQ.

16  
17 MILBANK, TWEED, HADLEY, & MCCLOY LLP

18 Attorney for the Official Committee

19 One Chase Manhattan Plaza

20 New York, NY 10005-1413

21  
22 BY: DENNIS C. O'DONNELL, ESQ.



1 SIPC

2 805 15th Street, N.W.

3 Suite 800

4 Washington, D.C. 20005-2215

5

6 BY: KENNETH J. CAPUTO, ESQ.

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1 P R O C E E D I N G S

2 THE COURT: Be seated. Good morning.

3 MR. KOBAK: Your Honor, James Kobak, Hughes  
4 Hubbard & Reed for the SIPA Trustee.

5 We've agreed that our one matter could go first  
6 because the only matter on our calendar is a status report,  
7 which I can make very briefly and very positively, which is  
8 to confirm what's already been reported in the press and is  
9 on our website that we do indeed have an agreement in  
10 principle with LBIE which we're all now in the process of  
11 working furiously to document and so forth.

12 Papers with respect to the transaction will be  
13 filed before the end of the year along with related motions  
14 with respect to allocation of property and post dividend --  
15 post filing date dividend and interest.

16 The motion that precipitated this conference was  
17 Elliot's motion, which is scheduled for November 14th.  
18 We've agreed with them and they're here in court today to  
19 postpone the hearing date, if any, on that until the omnibus  
20 calendar on December 12, if that's acceptable to Your Honor.

21 THE COURT: It's perfectly acceptable.

22 MR. KOBAK: And that concludes my report, Your  
23 Honor.

24 I think there are a number of us, if possible, who  
25 would like to be excused so we can go back to being

1 scriveners.

2 THE COURT: And so that you can avoid any further  
3 public statements on the subject. Sir, you're all excused.

4 MR. KOBAK: Thank you very much, Your Honor.

5 (A chorus of thank you)

6 THE COURT: And thank you for your good work in  
7 getting this documented.

8 MR. ARORA: Good morning, Your Honor. Amanjit  
9 Arora of Weil Gotshal and Manges on behalf of LBHI and some  
10 of its affiliates.

11 On today's agenda there are a few uncontested  
12 503(b) substantial contribution applications. If it's okay  
13 with Your Honor I'll cede the podium to the applicants.

14 THE COURT: Fine. We should hear from the  
15 applicants.

16 MR. THOMPSON: Good morning, Your Honor. I'm Mark  
17 Thompson of Simpson Thacher. I appear on behalf of  
18 Blackstone Advisory Services. With me in the courtroom is  
19 Nicholas Leon (ph) a senior managing director of Blackstone  
20 Advisory Services.

21 The application I'm here in respect of is the  
22 Lehman Brothers Special Financing, Inc., working group's  
23 application for entry of an order granting an application  
24 for a substantial contribution in the approximate amount of  
25 \$13.7 million.

1           The application was filed by several law firms who  
2           represented the individual creditors in that working group.  
3           They have asked me -- since the principle economics of the  
4           application are Blackstone's -- they have asked me as  
5           counsel to Blackstone to appear today in support of the  
6           application.

7           There was one objection filed, that was the  
8           objection of the United States Trustee, that was filed in  
9           August.

10          Since August, Blackstone has engaged in settlement  
11          discussions with the United States Trustee. There were at  
12          least three and perhaps four discussions. They took place  
13          over the month of September and most recently into October  
14          and we have resolved, we believe, the issues that the United  
15          States Trustee had raised.

16          The resolution is to reduce the amount of the  
17          substantial contribution request by \$1 million from 13.7 to  
18          \$12.7 million.

19          Among the applicants -- as among the applicants,  
20          that reduction is being borne by the individual creditors  
21          and not by Blackstone. Blackstone would be paid its full  
22          fee.

23          The application originally called for the  
24          applicants to be reimbursed for approximately \$2.1 million  
25          of fees that they had already paid to Blackstone. They will

1 now receive \$1.1 million in reimbursement of that.

2 I am -- I do not believe that there are any  
3 counsel to the individual creditors present here today, but  
4 I do know from personal observation that the order was sent  
5 to them, that they were told that it would occur, that it  
6 would be presented today, and I don't believe any of them is  
7 here to object to that, Your Honor.

8 I've also been told that Your Honor may desire to  
9 have a bit of a statement put on the record in support of  
10 the application. If that's true, I'm prepared to do so,  
11 otherwise, I am prepared to rest on the allegations in the  
12 application, which are uncontested as to matters of fact.

13 THE COURT: I think it would be useful if you're  
14 prepared to put a statement on the record for me to hear  
15 what you have to say.

16 This is a highly unusual request in that there are  
17 legal issues that were raised in the objection of the U.S.  
18 Trustee.

19 The withdrawal of that objection in recognition of  
20 the voluntary reduction of a million dollars in the request  
21 doesn't really obviate my obligation to independently assess  
22 the application and to also consider the legal grounds that  
23 support it.

24 So I think it would be very useful if you made  
25 whatever showing you believe appropriate under the

1 circumstances.

2 MR. THOMPSON: Yes, Your Honor, and just to --  
3 before I do so, as part of the settlement negotiations  
4 Blackstone and the working group never filed a response to  
5 the legal issues that were presented in the objection. That  
6 was part of our amicable discussions, if you will, was not  
7 to carry the legal issues any further.

8 THE COURT: It would have been helpful to the  
9 Court had you done so.

10 MR. THOMPSON: So -- well, you know, our view is  
11 that achieving a settlement was in itself had intrinsic  
12 benefits of its own and I hope that will be the Court's  
13 final assessment of it.

14 But let me proceed if I may to the -- to a  
15 statement in support of the application.

16 As Your Honor obviously knows, and I apologize to  
17 the extent that this is redundant from Your Honor's personal  
18 knowledge, but I'll try to make a reasonably comprehensive  
19 statement.

20 These were jointly administered cases with respect  
21 to all the debtors. Notwithstanding that, the debtor, LBSF,  
22 was a extraordinarily large Chapter 11 case of its own. It  
23 did not have a separate debtors' counsel or separate  
24 creditors' committees counsel.

25 It held approximately \$72 billion of financial

1 inventory at the time of filing, principally comprised of  
2 derivative positions. There were over \$1 trillion, I  
3 believe over \$1.2 trillion of proofs of claim filed against  
4 LBSF as a separate standalone -- I'm sorry against the  
5 debtors and against Lehman Brothers SF there were  
6 approximately \$74 billion of derivative transactions that  
7 were filed as proofs of claim.

8 So this is -- had there not been an LBHI  
9 bankruptcy this would have been the largest bankruptcy of  
10 all time by itself.

11 In late 2009, approximately a year or so after the  
12 cases had commenced, the working group coalesced for the  
13 purposes of ensuring that the interests of all LBSF  
14 creditors, standalone creditors or standalone claims, were  
15 effectively represented in this case. The working group was  
16 not co-extensive with the universe of LBSF creditors, but  
17 represented numerous large creditors.

18 And as was disclosed in the application, the  
19 membership of that group was informal and shifted from time  
20 to time as people sold or acquired further positions.

21 The working group had separate counsel. Each  
22 member of the working group had separate counsel. There was  
23 no common counsel. At the same time, from an efficiency  
24 standpoint, obviously having a single financial advisor was  
25 helpful to them and made for a more efficient dialog with

1 the debtors' estates, a benefit to the debtors and other  
2 parties in interest.

3 Accordingly, in the spring of 2010 they hired  
4 Blackstone to be the sole financial advisor to this diverse  
5 group of large creditors of LBSF.

6 THE COURT: Can I just ask a question about how  
7 this retention actually worked? Because the working group  
8 membership changed over time. People came into the group,  
9 others left the group, yet Blackstone had a role for the  
10 group as it was constituted at any particular point in time.  
11 Presumably there were agreements among the parties as to  
12 compensation of Blackstone as financial advisor for the  
13 group. How did that work?

14 MR. THOMPSON: There is an agreement, Your Honor,  
15 and it is attached as an exhibit to the application.

16 THE COURT: Yes, but how did it work in practice  
17 when on one hypothetical month the group might include  
18 different members than on another hypothetical month and  
19 work was being performed for the group in both months?

20 MR. THOMPSON: Yes. I think that as a practical  
21 matter, as is common in investment banker engagements, the  
22 vast bulk of the compensation was deferred until the end of  
23 the case.

24 I believe that more than -- if I can do the math  
25 quickly in my head -- certainly more than 80 percent of the



1 compensation was deferred and was not up fronted to be  
2 reimbursed, but was simply deferred with the idea that  
3 Blackstone would submit its -- or that they would submit a  
4 substantial contribution application and the debtor,  
5 assuming it were granted, would write one check for that  
6 deferred amount rather than each institution having to go to  
7 its, you know, accounting department every month and write,  
8 you know -- get authorization every month to write a check  
9 and then come into court and have the debtor send them all  
10 23 different checks of varying amount. So --

11 THE COURT: So is it fair to characterize the  
12 substantial contribution claim as a success fee?

13 MR. THOMPSON: I would say that it is a successful  
14 engagement. I would say that it is not our view that it is  
15 a success fee, although I do believe the success has  
16 occurred.

17 It is simply typical in these engagements, both in  
18 and out of Bankruptcy Court, to defer the compensation, the  
19 bulk of it to the end to incentivize the financial advisor  
20 to pursue the most efficient resolution of the case, which  
21 benefits obviously the clients as well as the estates and  
22 other parties in interest.

23 THE COURT: But that deferred compensation is not  
24 fixed, it's contingent.

25 MR. THOMPSON: It is fixed, Your Honor. It is --

1 THE COURT: Well, what if there's no success?

2 MR. THOMPSON: It's a fixed amount of eight and a  
3 half million dollars.

4 THE COURT: What if the case liquidated without a  
5 plan? What happens then?

6 What if the case converted to Chapter 7?

7 MR. THOMPSON: It is not payable in a Chapter 7,  
8 but I don't believe that that's --

9 THE COURT: Well, it's --

10 MR. THOMPSON: -- the facts that we're here on  
11 today.

12 THE COURT: Well, I'm just trying to understand a  
13 little bit more about Blackstone's expectations with respect  
14 to the fee and whether or not it's fair or unfair to  
15 characterize it as a success fee based upon how the case  
16 turns out.

17 MR. THOMPSON: Well, again, however the case has  
18 turned out in a certain manner. That manner satisfies the  
19 term of the engagement. I think it is safe to say  
20 Blackstone has had throughout this process an expectation  
21 that there would be a confirmed Chapter 11 case and that its  
22 fee would be paid upon conclusion of that by its clients or  
23 by the estates.

24 There were certain contingencies based on whether  
25 or not there was a -- which would really relate to how much

1 work was going to be done -- was there -- as was the case --  
2 a need to have plan litigation or to file a separate plan  
3 after exclusivity ended. That was a contingency which  
4 happened to have occurred. Had there been a completely  
5 consensual plan, one plan no (indiscernible - 00:12:36) is  
6 ever proposed to the Court the fee would have been  
7 different.

8 So there were some contingencies, but they -- the  
9 fee that is asked for reflects the full satisfaction of the  
10 contingencies in the engagement letter.

11 THE COURT: Okay.

12 MR. THOMPSON: So after Blackstone was retained in  
13 the spring of 2010 it began working very hard on behalf of  
14 these many, many creditors. And its various services. if I  
15 may briefly describe them. consisted of helping to resolve  
16 -- and I think this is one of the most important points for  
17 the estates and the benefit to others -- helping to resolve  
18 the complex valuation and quantifications of their clients'  
19 claims. Because each client had an individual interest to  
20 maximize its own recovery, but at the same time they all  
21 collectively had an interest to resolve their disputes with  
22 the estates -- as did the estates and the other creditors --  
23 in order to get the distributions out and to maximize value  
24 and not fritter them away in professional fees.

25 THE COURT: If I could just make a slight inquiry

1 as to what you just said. How do you know that?

2 How do you know what you've just said and how do  
3 you know that's a true statement about the mental states of  
4 this group and you're here representing Blackstone --

5 MR. THOMPSON: That's correct.

6 THE COURT: -- not the group.

7 MR. THOMPSON: That's correct.

8 The answer is -- if Your Honor needs me to I could  
9 put Mr. Leon on the stand and simply take him through that  
10 and he could speak to his personal observations, et cetera,  
11 but it is the -- what I was describing in terms of the  
12 interests of the clients are economic interests, not state  
13 of mind.

14 Their economic interest is to maximize their  
15 claim, and I respectfully submit this is something that from  
16 experience the Court could take judicial notice of. The  
17 clients, as individuals, seek to maximize the interests of  
18 their claims, the size of their claims, but at the same time  
19 the collective goal of Chapter 11 is to reorganize the  
20 company in a reasonably efficient period of time.

21 So I was not trying to speak to them subjectively,  
22 I was trying to speak to what I thought was sort of a  
23 conventional economic interest that creditors have in a  
24 bankruptcy case.

25 THE COURT: So it's more hypothetical than

1 specific to this case?

2 MR. THOMPSON: I would describe it as a general  
3 principle that is applicable in most bankruptcy cases and  
4 this would be a specific example of that general principle.

5 THE COURT: In terms of your own opportunity to  
6 observe creditor behavior, were you personally involved in  
7 the work of the working group or were you simply --

8 MR. THOMPSON: Of course not, Your Honor.

9 I'm Blackstone's counsel and I did not attend the  
10 meetings at which these creditors were negotiating with  
11 Blackstone.

12 THE COURT: I'm sorry, you did or did not?

13 MR. THOMPSON: Did not.

14 THE COURT: Okay.

15 MR. THOMPSON: And again, if Your Honor feels it's  
16 necessary to make a record, Mr. Leon could testify to his  
17 personal activities and involvement.

18 THE COURT: I'm just hearing your statement and  
19 reacting to things that occur to me as I'm hearing your  
20 statement.

21 MR. THOMPSON: Sure.

22 THE COURT: This is all free form. There's --

23 MR. THOMPSON: Sure.

24 THE COURT: -- we don't know yet what's going to  
25 happen, do we?

1 MR. THOMPSON: I certainly do not, Your Honor.

2 As part of its services, Blackstone developed for  
3 use among the working group and for sharing with the  
4 debtors, which have been sharing with Alveraz & Marsal, et  
5 cetera, a complex financial recovery model which showed the  
6 recoveries of LBSF creditors vis-à-vis the estate under  
7 various scenarios, substantive consolidation, non-  
8 consolidation, and alternatives. This was extremely  
9 complex, but it was shared with the debtors and the  
10 unsecured creditors' committee in this case.

11 What it allowed was for the working group to  
12 analyze -- not unlike what would happen if a committee  
13 financial advisor was sharing work with its committee -- to  
14 analyze potential settlement mechanisms that could bridge  
15 the positions that were being negotiated with the ad hoc  
16 committee and with the estate's professionals.

17 And this recovery model, it is submitted and on  
18 this record as uncontested, was instrumental in aiding the  
19 settlement negotiations with the debtors and the other  
20 parties in interest and was in fact used in those settlement  
21 negotiations.

22 As Your Honor will recall, consolidation or non-  
23 consolidation was a critical issue in the case and it was  
24 necessary to analyze intercompany claims, guarantee claims,  
25 et cetera, as well as the size of the individual derivative

1 claims.

2 There was a term sheet which was produced by the  
3 working group and proffered to the debtors in 2010 and this  
4 reflected the work product of Blackstone with its clients.

5 As Your Honor knows, an ad hoc group was formed at  
6 the holding company level, which subsequently proposed its  
7 own plan, and then massive settlement negotiations occurred  
8 in the second and third quarter of 2011.

9 There were -- at points according to my client --  
10 over 125 different individuals attended these negotiations,  
11 including principals for the major creditors as well as  
12 attorneys and financial advisors. There were two formal  
13 sessions and countless hours of negotiations.

14 Blackstone was involved in all of the negotiations  
15 where the working group was present. Certain members of the  
16 working group were present, but some were not present. In  
17 many ways, Blackstone was the point person for the financial  
18 aspects of analyzing and negotiating the comprehensive  
19 settlement that enabled the plan to be confirmed in the time  
20 in which it was confirmed.

21 As Your Honor recognized at the confirmation  
22 hearing the achieving of a consensual settlement among so  
23 many large creditors enabled the case to be confirmed in  
24 what for the size of the case was an amazingly efficient  
25 period of time.

1           And it is estimated, based on the run rate of  
2       professional expenses prior to the settlement, that as much  
3       as -- at least \$200 million and as much as \$400 million was  
4       likely saved to the estate by achieving a consensual  
5       resolution at that point rather than proceeding to a  
6       litigation of the various competing claims.

7           While Blackstone does not take credit and no  
8       individual party or professional could take credit for the  
9       settlement, Blackstone's clients submit -- have submitted to  
10      this application, and certainly Blackstone believes, that  
11      its work was a major contributor to the efficiency with  
12      which the settlement was achieved, because they worked not  
13      just with the other constituencies to resolve issues between  
14      the working group and those other constituencies, behind the  
15      scenes, they worked within their constituency to resolve the  
16      size and quantification of the derivative claims which  
17      further reduce major claim litigation in these cases with  
18      those major institutions.

19           Your Honor, that is all I would propose to present  
20      in the way of facts.

21           Now, the question is raised as to legal argument.  
22      This is an uncontested matter. Our discussions with the  
23      U.S. Trustee, we agreed this case would not serve as  
24      precedent for any other situations and that's reflected in  
25      the order, by the way, that this is a sui generis case, it's



1 a very -- one of the most unusual cases in American  
2 bankruptcy history, and as a result, you know, without  
3 saying anything more, we've agreed with them as parties, not  
4 to present the legal issues.

5 But if the Court needs legal argument, then you  
6 know, if the Court believes that there's an open legal issue  
7 that needs to be addressed, then I'm not going to abandon  
8 the argument and abandon my client, but I don't want to  
9 violate my agreement with the United States Trustee. It was  
10 really a policy issue that we decided we would just -- it  
11 would not be litigated in this particular case.

12 THE COURT: Well, let me respond to that and  
13 perhaps also I should hear from counsel for the U.S. Trustee  
14 with respect to the things I'm thinking about.

15 It was my understanding when the U.S. Trustee  
16 filed its objection to the various substantial contribution  
17 applications that certain of those objections related to  
18 quantum and reasonableness of the amount being sought. And  
19 certain of the objections related to legal entitlement given  
20 the language of 503(b)(4).

21 And speaking for myself, I was surprised when I  
22 received the pleading from the U.S. Trustee's Office  
23 indicating that this matter had been resolved purely on an  
24 economic basis.

25 In other words, the agreement by Blackstone to

1 voluntarily subtract a million dollars from the claim, as  
2 you described in your opening presentation, apparently  
3 represented a sufficient concession to resolve the issue.  
4 And so looking at this purely as a procedural matter, at  
5 this moment, what had been a contested matter is no longer a  
6 contested matter, although it's listed on the agenda as a  
7 contested matter.

8 But I was then left with the problem that  
9 bankruptcy judges occasionally face. Well, what does the  
10 statute mean and how should it be properly interpreted under  
11 these circumstances?

12 And so without the guidance of formal briefing I  
13 spent some time thinking about the issue. And we did some  
14 of our own research and we looked at some of the cases that  
15 have dealt with this in this jurisdiction and in other  
16 jurisdictions. And we have pondered collectively what I  
17 believe to be a somewhat difficult statutory construct which  
18 becomes even more difficult when its compared and contrasted  
19 with Section 330 of the Bankruptcy Code, which lists a broad  
20 category of professional persons whereas 503(b)(4) appears  
21 to limit reasonable compensation for professional services  
22 to those rendered by an attorney or an accountant.

23 In trying to construe 503(b)(3) and 503(b)(4)  
24 together it is possible for a reasonable mind to come to two  
25 different conclusions.

1 One conclusion is that the drafters of the Code  
2 deliberately limited the category of qualifying  
3 professionals to attorneys and accountants for purposes of a  
4 substantial contribution claim.

5 Another is that under 503(b)(3) expenses that are  
6 necessary are expenses that are compensable expenses to a  
7 creditor or a creditor group that qualifies for a  
8 substantial contribution. But that then raises the  
9 question, what kinds of expenses are those and are financial  
10 advisor expenses -- expenses like flying in an airplane to  
11 New York to attend a meeting -- or are they more like the  
12 expenses of an attorney that bills by the hour?

13 The point of this colloquy is to let you know that  
14 I've thought about this and have my own perspectives on it,  
15 but it would be useful, and I think for record purposes,  
16 essential to hear your legal argument as to why -- even  
17 though this is being limited as a non-precedential special  
18 case -- it is nonetheless in your view perfectly appropriate  
19 construing the Bankruptcy Code as its written to give your  
20 client millions of dollars of compensation.

21 MR. THOMPSON: Right, Your Honor. So keeping -- I  
22 want to stay for the moment within the spirit of the  
23 settlement that we negotiated with the United States  
24 Trustee's Office. And I want to pick up on something that  
25 Your Honor said earlier in the colloquy which is that

1 reasonable people could differ.

2 This is a difficult issue. There are no  
3 authoritative or controlling cases, if I may, no controlling  
4 opinions in this circuit on this subject.

5 THE COURT: I perfectly accept that. In fact one  
6 of my legal conclusions, having reviewed the applicable law  
7 in this area, is that there is no controlling precedent.

8 MR. THOMPSON: Yes. And so again, since I'm here  
9 with respect to an order that has been settled with the  
10 objector, and again, we have a long standing relationship  
11 with the Office of the U.S. Trustee whom we regard as our  
12 regulator and we try to make sure that we are faithful to  
13 our agreements, Blackstone has agreed to a settlement here  
14 and we want to make sure that we stay within that bound.

15 So I think the colloquy we just had supports a  
16 finding by the Court that the settlement that's being  
17 presented is a reasonable one and that the order -- and I  
18 don't really want to speak for the United States Trustee --  
19 I want to say again this is a very unusual case, we all  
20 recognize that. The dollars involved in the absolute sense  
21 are large. On the other hand, the dollars involved in this  
22 case are gigantic. So as a proportion it's not at all  
23 unusual compared to other Chapter 11 cases.

24 So that's really what I want to say. I mean I  
25 have an agreement with them that I am to present the order

1 as a settlement. I do have a view, which I would like to --  
2 which --

3 THE COURT: Let's find out if his expressing his  
4 view violates some agreement with the U.S. Trustee's Office,  
5 and I need to hear from her counsel on this before I hear  
6 further from you.

7 MR. THOMPSON: Yes, I think it is appropriate they  
8 speak to this, yes.

9 THE COURT: And incidentally, none of these  
10 strings attached to the settlement were clear to me as I was  
11 reading the papers.

12 MR. THOMPSON: They were in the order. I  
13 apologize, Your Honor.

14 THE COURT: I haven't looked at the order yet.

15 MR. THOMPSON: I understand. It was just  
16 negotiated overnight, Your Honor.

17 THE COURT: You shouldn't assume that I have  
18 actually read your proposed order. I've only -- I only read  
19 the withdrawal of the objection.

20 MS. SCHWARTZ: Good morning, Your Honor.

21 THE COURT: And then a whole bunch of things that  
22 nobody presented to me that we just did on our own.

23 MS. SCHWARTZ: Good morning, Your Honor.

24 THE COURT: Good morning.

25 MS. SCHWARTZ: Andrea Schwartz, for the United

1 States Trustee, Tracy Hope Davis. With me here is Susan  
2 Golden, also a trial attorney.

3 Your Honor, Mr. Thompson presented what has gone  
4 on between the United States Trustee and the special working  
5 group very articulately. We have spent a great deal of time  
6 in multiple discussions, in-person meetings with what we  
7 consider to be a very difficult issue in a very unique case.  
8 And we have learned a great deal from Mr. Thompson and the  
9 Blackstone professionals about the work that they did that  
10 Mr. Thompson recited from their papers today.

11 It would in fact violate the terms of the  
12 settlement agreement if Mr. Thompson was to express his view  
13 on the legal issue. Part of the resolution here was that  
14 the United States Trustee would in fact withdraw her  
15 objection.

16 Your Honor should also be aware that there were in  
17 fact three applications that were adjourned to today.  
18 Blackstone's application sits in a separate factual position  
19 from the other two. And perhaps, Your Honor, if Your Honor  
20 would like some, you know, further information with respect  
21 to that -- and I'm just making this as a suggestion --  
22 perhaps a chambers conference would be appropriate.

23 But what we do feel, Your Honor, is that in any  
24 litigation there's litigation risk. And parties have to  
25 assess that. We met with them, we discussed in full detail

1 the legal issues that Your Honor has taken the time to  
2 review with his staff as well. We also are -- obviously we  
3 have come to different conclusions on the actual legal  
4 issues.

5 But in order to effectuate what we think is a --  
6 an appropriate resolution here, this was the solution that  
7 we thought was appropriate in light of the work that they've  
8 done, in light of the uniqueness of this case, and that it  
9 would not have any precedential value in any other case.  
10 So --

11 THE COURT: Okay.

12 MS. SCHWARTZ: Thank you, Your Honor.

13 THE COURT: I accept that. And then -- we're not  
14 going to have legal argument as a result of what I  
15 understand to be the agreement reached between Blackstone's  
16 counsel and counsel for the U.S. Trustee.

17 But it's probably also unnecessary as well since  
18 I've given considerable independent thought to the question.  
19 And so it doesn't violate any agreement for me to speak and  
20 to state my assessment of 503(b).

21 First of all, I accept the proposition that the  
22 Lehman bankruptcy cases are in a class by themselves and  
23 that what I'm about to say applies only within these cases  
24 and should not be deemed to have precedential impact in  
25 other cases.

1           That having been said, I have tried in the past to  
2       circumscribe the way things I say from the bench are to be  
3       used and cited later, but I don't have that ultimate  
4       authority.

5           The way the world works today is that virtually  
6       everything people say and do, whether for the record or not  
7       for the record, have a way of finding themselves into an  
8       internet blog, a news report, or somebody's tweet. And so I  
9       recognize that my attempt to put something in a cabin  
10      doesn't necessarily mean that it stays there.

11          I also note that there are other cases that are  
12      pending in this Court that involve significant legal and  
13      factual issues and arise out of financial transactions that  
14      while different from the ones presented in Lehman may be  
15      comparable. The ResCap case comes to mind as one such  
16      example, but it's just one.

17          One of the consequences of being in a court that  
18      happens to be the venue for any number of significant  
19      bankruptcy cases is that many of these cases can be  
20      characterized as unique or unusually complicated. And so  
21      I'm comfortable putting Lehman in a class by itself given  
22      its enormous scale and complexity, but I am unable to limit  
23      how people may choose in the future to use the remarks I'm  
24      about to make.

25          I simply state that it is my intention that these



1 remarks be limited to the Lehman case. And in that respect,  
2 I note that 503(b)(3) and 503(b)(4), the provisions that  
3 govern the allowance of a substantial contribution claim as  
4 an administrative claim, are, when read together, not models  
5 of clarity.

6 It is not my intention today in unscripted remarks  
7 from the bench to do a close reading of the two  
8 subparagraphs together and come up with a RadLax (ph) like  
9 view of what the Code means. But I would note that one  
10 provision is general and the other provision is specific.

11 What I would also note -- and this ties to the  
12 unique nature of the Lehman cases -- is that in this  
13 extraordinary bankruptcy case a financial advisor was a  
14 necessary adjunct to the role of any creditor that was in a  
15 position to make a substantial contribution because the  
16 nature of the asset pool, the complexity of the underlying  
17 legal issues and financial issues associated with that asset  
18 pool, and the difficulty in assessing in a meaningful way  
19 the economic outcome associated with consolidated or  
20 nonconsolidated treatment of the estates all demonstrate to  
21 the Court that in this instance a financial advisor was  
22 needed.

23 503(b)(3) deals with actual necessary expenses of  
24 a creditor entitled to substantial contribution. For these  
25 purposes I'm satisfied that Blackstone, especially with its

1 claim trimmed by a million dollars, represents an expense  
2 which for this group of creditors was clearly necessary in  
3 order for them to understand and adequately and efficiently  
4 participate in a settlement process that benefitted the  
5 estate not only of LBSF, but of the other debtors as well.

6 Accordingly, I am satisfied that Blackstone, under  
7 the agreement with the Office of the United States Trustee,  
8 is entitled to the compensation as adjusted.

9 Nothing that I've said here, however, is intended  
10 to resolve what may be inherent stress within the language  
11 of the statute itself.

12 And I recognize that in a fully litigated context  
13 it is possible for a judge sitting where I'm sitting to come  
14 to a different conclusion.

15 And I'll take a look at the order, but I'm not  
16 going to read it in detail right now.

17 MR. THOMPSON: Thank you, Your Honor. The order  
18 has been reviewed by the United States Trustee as well a  
19 copy has been given to the debtor and the creditors'  
20 committee's counsel prior to the hearing.

21 THE COURT: Fine. I assume it's in excellent  
22 shape. Thank you. So that takes care of that one.

23 MR. THOMPSON: May I be excused, Your Honor?

24 THE COURT: You may be excused.

25 MR. THOMPSON: Thank you.

1 THE COURT: What happens next?

2 UNIDENTIFIED SPEAKER: Mr. Shore?

3 THE COURT: Good morning, Your Honor. Chris Shore  
4 from White & Case on behalf of the ad hoc group of Lehman  
5 Brothers bondholders.

6 We have also some pieces left over from the last  
7 hearing which are expenses of AlixPartners -- fees and  
8 expenses of AlixPartners, fees and expenses of Molinaro and  
9 Associates and a \$115,000 White & Case expense which was  
10 money paid to Mr. Molinaro, so that would have fallen into  
11 -- or it was taken out of the last application on White &  
12 Case expenses.

13 So we have an application for a total of  
14 \$2.824 million of fees and expenses incurred in connection  
15 with financial advisor work in connection with the cases.

16 If Your Honor would like me to make a record on  
17 that I'm happy to do so. I've got the same sensitivities  
18 with respect to the resolution with the U.S. Trustee, but in  
19 light of Your Honor's comments I think we understand, you  
20 know, the Court's view on this. So I'm at Your Honor's  
21 pleasure on that.

22 THE COURT: Just for my benefit clarify to me if  
23 there are any distinctions between your agreement with the  
24 U.S. Trustee and the agreement with Blackstone, because I  
25 had understood from counsel for the U.S. Trustee that

1 Blackstone was in a position that was sui generis.

2 MR. SHORE: There are some factual distinctions  
3 between the Blackstone application and the application that  
4 was made by White & Case on behalf of -- or for  
5 reimbursement of the fees and expenses of the two FAs. And  
6 I can draw Your Honor's attention to that, because I think  
7 it plays a little bit differently in the statute.

8 But as far as arguing how that runs through the  
9 statute, again, I feel bound not to go into that, but to the  
10 extent that the U.S. Trustee has a different view, we can  
11 hear from her on that. But let me lay out the factual  
12 distinction.

13 Both Molinaro and Associates -- Sam Molinaro was  
14 the former CFO of Bear Sterns. He was brought in as a non-  
15 testifying expert for the group to provide us with  
16 information regarding the workings of a large investment  
17 bank and the sub-con, non-con issues that arose.

18 AlixPartners was brought in as both non-testifying  
19 and testifying experts to deal with issues of preparing  
20 modeling, assisting with settlements and then also preparing  
21 all the underlying information that was put in the group's  
22 disclosure statement.

23 Both of those engagement letters were with White &  
24 Case with the ultimate funds paid through directly from the  
25 group members to both Molinaro and AlixPartners.

1           The AlixPartners application is for essentially  
2   1.77 million in fees and 82,000 in expenses.

3           Molinaro works out to \$945,000 in fees and 25- or  
4   \$26,000 in expenses.

5           If Your Honor has further questions with respect  
6   to that, but the distinction is that White & Case was the  
7   entity that retained these as experts. And then also there  
8   were no contingent fees with it, it was all just either flat  
9   monthly fee with hourly top-ups or in the case of  
10   AlixPartners a flat hourly fee plus expenses.

11           THE COURT: I understand the distinction.

12           MR. SHORE: And then with that, we'd ask Your  
13   Honor to grant the application. I do have an order that I  
14   can hand up.

15           THE COURT: Is there anything that the U.S.  
16   Trustee wishes to say?

17           MS. SCHWARTZ: No, Your Honor.

18           MR. SHORE: If I may approach, Your Honor?

19           THE COURT: You may. I'll simply note that there  
20   is a nuance distinction between the application as it  
21   relates to AlixPartners and Molinaro and the application  
22   that was just approved in reference to Blackstone.

23           But in light of the agreement that has been  
24   reached between the Office of the United States Trustee and  
25   the applicants, it is probably just as well that I not

1 highlight that distinction for purposes of commenting today  
2 and would simply approve it for the reasons already given in  
3 reference to the Blackstone application.

4 MR. SHORE: Very good. Thank you, Your Honor.

5 MS. SCHWARTZ: And, Your Honor, we would just ask  
6 for a little time to talk with Mr. Shore about the form of  
7 the order because we hadn't seen it before today.

8 MR. SHORE: That was my mistake.

9 THE COURT: That's fine. I'll wait to --

10 MS. SCHWARTZ: Thank you so much, Your Honor.

11 THE COURT: -- to hear from your office indicating  
12 that it's in form acceptable to you.

13 MS. SCHWARTZ: Thank you, Your Honor. And Your  
14 Honor, at this time may I and Susan be excused?

15 THE COURT: Yes.

16 MS. SCHWARTZ: Thank you.

17 MR. SHORE: And myself as well, Your Honor?  
18 ResCap is going on the record.

19 THE COURT: Anybody else who wants to leave is  
20 free to go.

21 MS. SCHWARTZ: Thank you very much, Your Honor.

22 MR. GETTLEMAN: Good morning, Your Honor. Jeffrey  
23 Gettleman representing the liquidators of Lehman Brothers  
24 Australia.

25 THE COURT: Good morning.

1 MR. GETTLEMAN: Your Honor, the reason we're here  
2 today is because the last time I was before you on a related  
3 matter you had inquired about the Chapter 15 case and at  
4 that time I said I thought I would be back in 60 days and I  
5 was here in June, so clearly I didn't make that date.

6 So rather than keeping Your Honor in the dark, I  
7 thought we would be proactive and tell you what was going on  
8 in Australia and how that might affect the Chapter 15 case.

9 So I thought the easy or most efficient way of  
10 going through this would just be relating to the timing of  
11 the Australian proceeding and how that affects the Chapter  
12 15 case.

13 So, Your Honor, the -- there is a large group of  
14 contingent creditors in the Lehman Brothers Australia case  
15 who made claims against the estate based on various types of  
16 misrepresentation, breach of fiduciary duty, breach of  
17 contracts to give -- or agreements to give investment  
18 advisory services. These contingent creditors consisted of  
19 basically local government units and also individual  
20 investors.

21 So there was a -- they commenced a case. They  
22 were successful in getting the stay in the Australian  
23 proceeding lifted.

24 They filed the case which was before Justice  
25 Juarez (ph) in Australia and the final submissions of which

1 were made in the middle of last year. And then Justice  
2 Juarez took the case under advisement.

3 At the same time, during 2011, Lehman Brothers  
4 Australia or the liquidators asserted claims against two  
5 groups of insurers. One in Australia and one in -- one  
6 group in the United States.

7 Based on claims against certain investment  
8 management policies the liquidators believe that the  
9 policies would have covered at least some of the aspects of  
10 the contingent creditors' claims in their own proceeding.

11 So those discussions proceeded throughout 2011 and  
12 they culminated in a mediation in December of last year.

13 Shortly after the mediation -- this is only with  
14 the U.S. insurers I should clarify. Shortly after the  
15 mediation, the U.S. insurers and liquidators reached an  
16 agreement to settle the claims and entered into a settlement  
17 agreement.

18 So the -- once the settlement agreement was  
19 entered into it changed the, kind of, the dynamics of the  
20 Australian proceeding somewhat, because the Australian  
21 proceeding was a liquidation, basically a Chapter 7 case.

22 But one of the conditions precedent in the  
23 settlement agreement with the U.S. insurers was that Lehman  
24 Brothers Australia's creditors or the group of creditors  
25 that had these claims had to give releases to the U.S.



1 insurers and the U.S. broker.

2 So under Australian law, the -- not the only way,  
3 but really the only practical way to give releases is  
4 through a scheme of arrangement. The only other way would  
5 be having all 350 creditors sign individual releases which  
6 is a little impractical.

7 So at that time the liquidators started thinking  
8 about what sort of scheme might be appropriate. And they  
9 were -- the answer to that question in a -- at least in part  
10 -- depended on the resolution of the class action by the  
11 contingent creditors. So that's one reason for the delay  
12 this year.

13 As Your Honor knows, if you've read our status  
14 report, Justice Juarez issued his reasons and judgment on  
15 September 21st upholding in large part the claims. But  
16 before that of course, you know, the liquidators actually  
17 couldn't really proceed with designing a scheme because, you  
18 know, one of the possible outcomes of that proceeding could  
19 have been that Justice Juarez could have basically denied  
20 the claims.

21 So anyway, fast forward to the present now.  
22 What's happening in Australia now is now that that's  
23 happened the estate has certain claims to still be resolved,  
24 basically intercompany claims, not only with the U.S.  
25 debtors, but also with other Lehman entities, Lehman

1 Brothers Asia, Lehman Brothers Japan, and LBIE I think are  
2 the biggest ones. So those claims still have to be  
3 resolved.

4 And the liquidators believe that the best course  
5 in their, you know, capacity as fiduciaries for the estate  
6 would be to propose a broad scheme which would encompass  
7 basically all of the claims or as many claims as possible.

8 The other alternative would be to propose a scheme  
9 that only affected -- or only encompassed the insurance  
10 proceeds, and therefore, because if they don't have that,  
11 then they lose the benefit of the settlement. So they can  
12 at least proceed that way.

13 They're not going to be able to know until later  
14 this year once they have further discussions with  
15 stakeholders in Australia and also the other Lehman entities  
16 whether, you know, what sort of scheme they can propose.

17 Just so Your Honor knows, the basic underlying  
18 reason, or I should say maybe the most important reason for  
19 doing a broad scheme, would be a matter of saving estate  
20 funds, because the scheme would have a feature that would  
21 basically be an ADR process for resolving contingent  
22 creditors' claims.

23 Not all of them were members of this class, and of  
24 course the Court didn't -- only decided issues that were  
25 common among the class. So there are still quite a few

1 issues to be decided and each individual claimant still has  
2 the right to have their claim adjudicated.

3 So they're hoping that by proposing and getting a  
4 scheme of arrangement that has this ADR process built into  
5 it, it'll shave several years off of possible litigation  
6 with creditors.

7 So, as Your Honor knows, as far as resolving  
8 assets and liabilities of the Australian estate, the last  
9 time I was here I believe I told -- I advised you that the  
10 liquidators were planning to travel to New York to meet with  
11 the Lehman U.S. debtors which did happen in September. And  
12 at that time we had some discussions about -- they were  
13 broad ranging discussions -- but they focused on the Dante  
14 (ph) notes.

15 And so just on that for a second, I mean, I think  
16 we have some tentative good news on the Dante front. I  
17 think -- I haven't been involved in anything that's happened  
18 since those meetings, so I think Mr. Slack can bring the  
19 Court up to date on the current status of those  
20 negotiations.

21 THE COURT: I'm very interested in knowing about  
22 it. And this also explains why Mr. Slack is here today.

23 MR. SLACK: Good morning, Your Honor. Richard  
24 Slack from Weil.

25 I like to stand here and give you good news and we

1 do have some good news relating to the Belmont noteholders  
2 and the series that they hold. As a result of the meetings  
3 that were just mentioned we have reached a settlement in  
4 principle with the Belmont noteholders. That settlement is  
5 still being documented, and that deal, when documented, will  
6 still have certain conditions that'll have to be met in  
7 order for it to actually resolve the series of notes.  
8 Because as we know the Belmont noteholders are just part of  
9 the series.

10 So we have a deal with the Belmont noteholders  
11 that we hope will in fact then resolve the entire series  
12 after we go through certain steps. But if it all goes as we  
13 hope and expect, then, the settlement will resolve a number  
14 of things before the Court.

15 It will resolve the Belmont noteholders separate  
16 lawsuit that they brought as an adversary proceeding. It  
17 will resolve parts of the avoidance actions that relates to  
18 these particular series. It'll resolve Belmont's appeal of  
19 this Court's denial without prejudice of its motion to  
20 intervene in those avoidance actions, and it will also  
21 resolve certain claims that had been brought relating to  
22 those series.

23 So if all goes again as we hope and expect, I  
24 think, you know, there's a number of things that may get  
25 resolved down the road.

1 THE COURT: I'm delighted to hear that. This  
2 subject was on my mind last week when I saw the Second  
3 Circuit's decision remanding an appeal back to the District  
4 Court in connection with the without prejudice denial of the  
5 motion to intervene in the underlying litigation.

6 In what respect, if at all, does the timing of the  
7 documentation of the settlement impact the timing of  
8 anything to occur in the District Court with respect to the  
9 matter that has been remanded back to the District Court by  
10 the circuit?

11 MR. SLACK: Well, we would hope, Your Honor, that  
12 once the deal is papered there'll be notices to the District  
13 Court and to this Court that it's been papered, and at that  
14 time I would hope that the parties would be both informing  
15 and letting the Courts know that there's no need, at least  
16 pending certain conditions occurring, for those decisions to  
17 come out.

18 You know, with respect to the District Court I  
19 think that there is -- there is still some activity that  
20 would need to happen before the Court -- District Court  
21 would act, because the appeal to the Second Circuit merely  
22 sends the case down to the District Court to then decide the  
23 merits.

24 As you know the District Court had dismissed the -  
25 - had dismissed the appeal on a procedural matter, so it

1 goes back now for a decision on the merits, and we haven't  
2 had -- we haven't had those kinds of communications yet or  
3 briefing or argument with the District Court on those  
4 issues.

5 THE COURT: Well, I would simply note in the  
6 interest of judicial economy in all courts that it would be  
7 unfortunate for Judge McMahon, assuming that's the judge who  
8 is getting it back, to be in any way burdened by what may be  
9 a purely hypothetical question at this point.

10 MR. SLACK: I think your point is well taken and I  
11 think it's worth a discussion with the Belmont noteholders  
12 as to whether this would be an appropriate time, even if  
13 it's not, you know, documented to contact the District  
14 Court.

15 THE COURT: I'm simply conscious of the asymmetry  
16 in information that now exists between the Bankruptcy Court  
17 and the District Court on this case.

18 MR. SLACK: Understood, Your Honor.

19 THE COURT: Okay.

20 MR. GETTLEMAN: And, Your Honor, one -- to add to  
21 Mr. Slack's list of things that would be resolved, there is  
22 one other issue -- one other matter which would be resolved,  
23 which is the liquidators objection to the LBHI plan based on  
24 the assumption of swap agreements, which is still pending.

25 THE COURT: I didn't even know it was pending.

1 MR. GETTLEMAN: Well, it's part of a group of  
2 contracts that were --

3 THE COURT: Oh, it's in that category of --

4 MR. GETTLEMAN: Exactly.

5 THE COURT: -- contract claims that keeps getting  
6 adjourned.

7 MR. GETTLEMAN: Yes, Your Honor.

8 THE COURT: Okay.

9 MR. GETTLEMAN: So, the current status is then, as  
10 far as this Court is concerned, one of the other conditions  
11 precedent in the agreement with the U.S. insurers is that we  
12 have the -- have Your Honor approve the settlement  
13 agreement. So we will be doing that in due course.

14 The liquidators will basically be hitting the  
15 road, if you will, over the next several months to probably  
16 Hong Kong, London and New York to try to resolve the  
17 remaining issues with the other Lehman entities. And at the  
18 same time they'll be negotiating -- try negotiating a scheme  
19 with their stakeholders in Australia.

20 They expect to be able to have, at least at this  
21 point, their expectation is to have a scheme negotiated by  
22 the end of the year and then have applications made to the  
23 Australian court for approval at the beginning of next year.

24 So as far as the Chapter 15 case goes, the reason  
25 -- one of the main reasons we filed the case, which we filed

1     shortly after the insurance settlement, was to make sure  
2     that either the contingent creditors in the class action or  
3     any other creditor were prevented from having a right or  
4     alleging at least asserting a right of direct action against  
5     the U.S. insurer, so we wanted to have the stay in place.

6             So therefore, we'll want to continue to have the  
7     stay in place until the scheme in Australia is approved. So  
8     that would be some time next year.

9             So that's kind of where things are and where we  
10    hope they'll go.

11            THE COURT: Okay. Thank you for the update and  
12    for the written status report that was filed on October 8th,  
13    which I took a look at in preparation for today's hearing.

14            And I have a hard time getting my mind around a  
15    450-page decision of any court, and I -- with no offense to  
16    Justice Juarez, I have no intention of reading all 450  
17    pages.

18            Have you read all 450 pages?

19            MR. GETTLEMAN: I have not. I've read the  
20    summary, but I have heard of people that have read the whole  
21    450 pages.

22            THE COURT: Okay. One just point of personal  
23    information I'm interested because I have met Justice Juarez  
24    and I also met Justice Jacobson (ph). Do you know whether  
25    the scheme is to be approved in a proceeding before Justice



1 Jacobson and Justice Juarez?

2 MR. GETTLEMAN: Your Honor, I think I can answer  
3 that question if I can consult one of my colleagues on this  
4 who knows more about the Australian proceedings.

5 THE COURT: Okay.

6 (Pause)

7 MR. GETTLEMAN: The likelihood is that it would be  
8 heard by Justice Jacobson, Your Honor.

9 THE COURT: Fine. Okay. Thank you for that.

10 MR. GETTLEMAN: Thank you, Your Honor.

11 THE COURT: Is there anything more for today?

12 UNIDENTIFIED: No.

13 THE COURT: We are then adjourned. Thank you.

14 UNIDENTIFIED SPEAKER: Thank you, Your Honor.

15 (Whereupon these proceedings were concluded at 11:09  
16 A.M.)

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I N D E X

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Lehman Brothers Special Financing Inc.

Working Group's Application for Entry of an

Order, Pursuant to 11 U.S.C. §§ 503(b) (3) (D)

and 503(b) (4) for Allowance and Reimbursement

of Reasonable Professional Fees and Actual,

Necessary Expenses in Making a Substantial

Contribution in These Cases [ECF No. 29239] 31 21

Application of the Ad Hoc Group of Lehman

Brothers Creditors for Compensation for

Professional Services Rendered by, and

Reimbursement of Actual and Necessary

Expenses of, Its Professionals Pursuant to

Section 503(b) of the Bankruptcy Code

Rendered by, and Reimbursement of Actual

and Necessary Expenses of, Its

Professionals Pursuant to Section 503(b)

of the Bankruptcy Code [ECF No. 29195] 38 2

C E R T I F I C A T I O N

I, Melissa Looney, certify that the foregoing transcript is  
a true and accurate record of the proceedings.

Melissa  
Looney

Digitally signed by Melissa  
Looney  
DN: cn=Melissa Looney, o, ou,  
email=digital1@veritext.com,  
c=US  
Date: 2012.10.11 14:46:16 -04'00'

Melissa Looney

AAERT Certified Electronic Transcriber CET\*\*D-607

Veritext

200 Old Country Road

Suite 580

Mineola, NY 11501

Date: October 11, 2012